

Exhibit 1

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

<b>JESSE L. MORGAN,</b>	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 4:15-cv-1654-SNLJ
	)	
<b>THE VOGLER LAW FIRM, P.C., et al.,</b>	)	
	)	
Defendants.	)	

**AFFIDAVIT OF ATTORNEY BRYAN E. BRODY  
IN SUPPORT OF PLAINTIFF'S REQUEST FOR FEES**

The affiant, Bryan E. Brody, being of lawful age and being first duly sworn upon his oath, deposes and states as follows:

1. I am fully competent to provide the testimony contained herein. If called to do so, I will provide this testimony in Court.

2. I am the lead attorney of record for Plaintiff Jesse Morgan in the above-captioned case.

3. I graduated from the Tulane University Law School in 2005 and was licensed to practice law in the State of Missouri that same year.

4. I possess over a decade's worth of experience in consumer litigation, having represented both debtors and creditors in hundreds of cases. I have been the lead attorney in numerous successful appellate decisions involving consumer law before the Missouri Court of Appeals and the Supreme Court of Missouri.

5. Based on my experience providing counsel to debtors, they are an under-represented category of aggrieved consumers. Most consumers have little knowledge of their

rights and are unable to secure counsel to enforce those rights absent a statutory attorneys' fee provision, such as the rights provided by the Fair Debt Collection Practices Act and the Missouri Merchandising Practices Act.

6. I am familiar with the hourly fees charged by and awarded to attorneys in the Eastern District of Missouri and in the St. Louis region for litigation in general, and consumer rights litigation in particular.

7. I began representing Jesse Morgan on May 1, 2015 and executed an Attorney-Client Agreement with him providing for the billable rate of \$395.00.

8. My hourly rate of \$395.00 per hour is reasonable and consistent with, and in most cases less than, the rates of attorneys of comparable skill, reputation, and experience performing work in the St. Louis area.

9. This rate takes into account my ability to complete litigation tasks for consumer cases more efficiently than attorneys without my experience in this area of law. For example, in this case, I seek less than three hours of time for preparing and filing two separate five-page motions to compel with multiple exhibits.

10. Missouri state courts have regularly approved and awarded fees at my rate of \$395.00 per hour, including on disputed fee motions. *See, e.g., Sparling v. BBC Motors, Inc.*, Jefferson County, Missouri Circuit Court Case No. 15JE-AC04166-01 (Sept. 28, 2016) (awarding 100% of the undersigned's billable time at the requested rate of \$395.00 after defendant sought a reduction to at least \$350.00 per hour following a successful trial on the merits under the MMPA in favor of the plaintiff-consumer); *see also Executive Affiliates, Inc. v. AAF-McQuay, Inc.*, No. 4:12-CV-175, 2013 WL 6571595 (E.D.Mo.2013) (approving \$450 hourly rate and citing "a study by Missouri Lawyers Weekly finding that . . . the average billing

rate for partners in St. Louis exceeded \$400.00 per hour.”); *Robinson v. Pfizer Inc.*, No. 4:16-CV-439, 2016 WL 2910272, \*1 (E.D. Mo. 2016) (approving \$400 hourly rate); *Abdullah v. County of St. Louis, Mo.*, No. 4:14 CV 1436, 2015 WL 5638064, \*5 (E.D. Mo. 2015) (approving \$400 and \$350 hourly rates).

11. The most recent fee surveys for the St. Louis area, including the Missouri Lawyers Weekly’s Billing Rates for 2016, the National Law Journal’s 2014 Fee Survey, and the 2013-2014 U.S. Consumer Law Survey all support \$395.00 as a reasonable rate for an attorney with my experience and area of practice.

12. For example, the 2013-2014 U.S. Consumer Law Survey, the most current fee survey available for debtor’s and creditor’s rights (filed contemporaneously herewith as Exhibit 2), identifies the average hourly rate of \$460.00 for attorneys with eleven to fifteen years of experience in the St. Louis, Missouri region; I have approximately twelve and one-half years of experience. Exhibit 2, at p. 101.

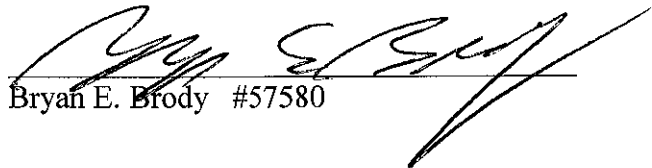
13. According to the National Law Journal’s 2014 Fee Survey, which is also the most recent survey available for that publication (filed contemporaneously herewith as Exhibit 3), the average partner rate for firms located in the St. Louis, Missouri area are significantly higher than the \$395.00 rate the undersigned has billed in this case. Husch Blackwell reported a median partner billing rate of \$449; Bryan Cave reported a median partner billing rate of \$620; and Thompson Coburn reported a partner billing rate of \$440. *See* Exhibit 3, at pp. 3, 8, 16.

14. Plaintiff has limited his request for fees to only the time expended in drafting the Motions to Compel. Plaintiff’s counsel expended additional time, including tracking the status of the discovery responses and sending multiple emails to each set of Defendants regarding the outstanding discovery, but has not that time for purposes of this fee request.

15. The total amount of fees incurred in preparing both Motions to Compel was \$948.00, which represents 2.4 hours billed at 0.1 hour increments, for the time spent in obtaining discovery responses after Defendants' continued refusal to respond to the discovery or Plaintiff's efforts to discuss a resolution after they were already due.

16. Since each set of Defendants' conduct in failing to respond was identical, the corresponding Motions to Compel were similar. Therefore, Plaintiff only seeks 1.2 hours from each set of the Defendants rather than asking this Court to compensate duplicative efforts.

FURTHER AFFIANT SAYETH NOT.

  
Bryan E. Brody #57580

STATE OF MISSOURI

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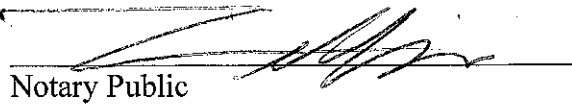
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SS.

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CITY OF ST. LOUIS

Sworn to and subscribed before me this 20<sup>th</sup> day of April, 2017.

  
Notary Public

My Commission Expires:

